IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 23RD MARCH 2007 / 2ND CHAITHRA 1929

WP(C).No. 28545 of 2003(W)

PETITIONER:

K. SUBRAMANIAM, ARUNAVILAS
CARDAMOM ESTATE, 62TH MILE,
VANDIPERIYAR.

BY ADV. SRI.P.RAMAKRISHNAN
SMT.A.K.PREETHA

RESPONDENTS:

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1. THE KERALA LABOUR WELFARE FUND BOARD,
THIRUVANANTHAPURAM, REPRESENTED BY THE
LABOUR WELFARE FUND COMMISSIONER.

2. LABOUR WELFARE FUND INSPECTOR,
KERALA LABOUR WELFARE FUND BOARD,
IDUKKI. (OFFICE: HOLIDAY HOME, KUMALI).

3. DEPUTY TAHSILDAR (R.R.)
PEERMADE TALUK, PEERMADE.

BY ADV. SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/03/2007, ALONG WITH W.P.(C)No. 28561 OF 2003, WPC NO. 28650 OF 2003, WPC NO. 28642 OF 2003 & WPC NO. 38031 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)No. 28545/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY THE REGISTERING OFFICER, PEERMADE TO THE PETITIONER DATED 31/12/1985.

EXT.P2 COPY OF THE NOTICE NO. 06/PL/n.29 DATED 11/06/1998 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P3 COPY OF THE ORDER NO. 114/2002 (b) DATED 15/01/2003 ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P4 COPY OF THE REPLY DATED 26/02/2003 ISSUED BY THE PETITIONER TO THE SECOND RESPONDENT.

EXT.P5 COPY OF THE NOTICE NO. D1/6321/03 DATED 13/08/2003 ISSUED by the 3RD RESPONDENT TO THE PETITIONER.

EXT.P6 COPY OF THE NOTICE NO.D1/6321/03 DATED 13/08/2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) Nos. 28545, 28561, 28642, & 28650 of 2003

Dated, this the 23rd day of March, 2007

J U D G M E N T

In these connected cases, petitioners are small planters having cardamom cultivation in 3-4 acres of land. Petitioners are stated to be close relatives. Demand under challenge is contribution towards Labour Welfare Fund under Kerala Labour Welfare Fund Act 1975. According to the petitioners; demand is raised by clubbing the employees together and taking their number as above 10 in a day, which attracts liability under the Act by virtue of definition of establishment contained under Sec. 2(f)(iii) of the Act, which makes land owner, of tea, rubber, coffee, cardamom, oil palm or cocoa, liable if 10 or more workers are employed in any day of the preceding 12 months. The Standing Counsel for the Welfare Fund produced inspection report in one case, which shows that in the case of petitioner in WPC 28642/2003, when inspection was held on 20/08/2002, 17 workers were found engaged in the estate, though the estate

was only four acres.

2. The inspection report produced in Court shows that when inspection was carried out petitioner was absent and the supervisor who was present, refused to sign inspection report or to accept the copy. I do not think refusal of the employer to receive copy of inspection report, affects validity of inspection. It is quite common that during crop season large number of employees are required for plucking the crop, which is inherent in the nature of the plantation. Since the Act makes cardamom planter liable for contribution if employees engaged on a single day in an year is above 10, the Welfare Fund Inspector is entitled to demand contribution. However, since petitioners have not been issued copy of inspection report and were not heard before final orders on demand of contribution are made, WP(C)s are disposed of directing the Welfare Fund Inspector to serve copy of the inspection report in the case of each of the petitioners and complete the adjudication after hearing them. It will be open to the welfare fund inspector to conduct inspection at any time to determine the liability for the current year or for future. RR

proceedings will be kept in abeyance for three months from now within which time, the inspector will serve the revised orders and send copies of the same to the recovery authorities to modify the demand and to recover the actual amount payable, if payment is not made in terms of revised demand.

These WP(C)s are disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg